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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	
	:	Chapter 11
DELPHI CORPORATION, <u>et al.</u> ,	:	
	:	Case No. 05-44481 (RDD)
Debtors.	:	
	:	(Jointly Administered)
-----X	:	

**LIMITED OBJECTION OF GENERAL ELECTRIC CAPITAL CORPORATION TO
NOTICE OF ASSUMPTION AND ASSIGNMENT WITH RESPECT TO CERTAIN
EXECUTORY CONTRACTS OR UNEXPIRED LEASES TO BE ASSUMED AND
ASSIGNED TO PARNASSUS HOLDINGS II, LLC UNDER MODIFIED PLAN OF
REORGANIZATION**

General Electric Capital Corporation (“GE”), by its attorneys Reed Smith LLP, files its Limited Objection (the “Objection”) to Notice of Assumption and Assignment with Respect to Certain Executory Contracts or Unexpired Leases to be Assumed and Assigned to Parnassus Holdings II, LLC under Modified Plan of Reorganization (the “Notice”), and states as follows:

1. GE leased various equipment to the Debtors pursuant to various master lease agreements and over 1100 related schedules (collectively, the “Leases”). GE does not object to the assumption and assignment of the Leases. Rather, GE objects to the Cure Amount listed by

the Debtors with respect to the Leases, and the failure of the Debtors to note that such Cure Amount is disputed.¹ This is another of the Debtors' numerous attempts to deny GE its rightful recovery for pre and post petition amounts due under the Leases, even though the Debtors acknowledge that such amounts are owed or, at minimum, are in dispute.

2. As fully set forth in GE's Cure Claim filed on March 6, 2008 [Dkt. No. 12998] (the "Cure Claim"), GE has engaged in discussions with the Debtors since early 2008 regarding the amount and classification of GE's claim. Based on such communications, GE filed its Cure Claim in the amount of \$620,181.39. The Debtors have since fallen behind on certain additional payments under the Leases. As of June 30, 2009, the Debtors owe GE a total of \$1,138,006.73 in cure amounts, including additional post-petition rent that has not been paid.²

3. However, the Debtors continue to assert that GE is only owed \$431,077.32, though they fail to put forth any evidence to rebut GE's documentation of amounts owed or provide a basis for the lesser amount. They simply allege that GE's higher amount is not reflected on their books and records. GE has continued to object to the Debtors' unfounded assertion, which objections have not yet been resolved or heard by this Court.

4. For example, on May 21, 2008 GE filed its Response to the Debtors' (i) Omnibus Objection Pursuant to Confirmation Order, 11 U.S.C. Sections 105(a), 365, and Fed. R. Bankr. P. 9014 Regarding Cure Proposals Submitted under Article 8.2(b) of Debtors' Plan of Reorganization and (ii) Request for Order Provisionally Allowing Certain Cure Proposals [Dkt. No. 13636], arguing against the Debtors' groundless assertion that \$431,077.32 is owed.

5. GE asserted the same argument on December 9, 2008 when it filed its Response to Debtors' Thirty-Second Omnibus Objection Pursuant to 11 U.S.C. 502(b) and Fed. R. Bankr.

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Notice.

² These amounts continue to accrue. GE reserves its right to recover these additional amounts.

P. 3007 Regarding (A) Asserted Amount Claims, (B) Claims Subject to Modification, and (C) Claims to be Expunged [Dkt. No. 14570].

6. These objections have not yet been resolved.

7. Surprisingly, however, when the Debtors filed the Notice of Assumption of GE's Leases, they again listed the Cure Amount as \$431,077.32. They failed to note that the Cure Amount associated with the Leases is in dispute pursuant to the procedures set forth in the Confirmed Plan and December 10 Solicitation Procedures Order, as they do with other lessors' leases.

8. It is clear that the Cure Amount is in dispute and has not yet been resolved by agreement, this Court, or otherwise. Accordingly, GE requests that the Debtors be required to acknowledge, on the record, that the Cure Amount is disputed and that it must be resolved pursuant to the procedures set forth in the Confirmed Plan and December 10 Solicitation Procedures Order. GE further requests that this Court overrule the Debtors' proposed Cure Amount of \$431,077.32 and instead grant GE a Cure Claim in the amount of no less than \$1,138,006.73.

Waiver of Memorandum of Law:

9. Pursuant to Rule 9013-1(b) of the Local Rules of the U.S. Bankruptcy Court for the Southern District of New York, GE respectfully requests that the Court waive the requirement of a memorandum of law in support of this Objection, because the legal points and authorities on which this Objection relies are incorporated herein. Accordingly, GE respectfully requests that the Court find that Local Rule 9013-1(b) is satisfied.

10. GE reserves the right to amend or supplement this Objection to the extent made necessary by the response of any party, or as may be requested by the Court.


11. Nothing herein shall be construed as a waiver of GE's rights to an administrative claim for additional post-petition amounts owed by the Debtors, all of which are expressly preserved.

WHEREFORE, GE respectfully requests that the Court (i) compel the Debtors to acknowledge that the Cure Amount with respect to GE's Leases is in dispute pursuant to the procedures set forth in the Confirmed Plan and the December 10 Solicitation Procedures Order, (ii) overrule the Debtors' proposed cure amount of \$431,077.32 and instead grant GE a Cure Claim in the amount of no less than \$1,138,006.73, and (iii) grant GE such other and further relief that the Court deems just and proper.

Dated: July 20, 2009

Respectfully submitted,

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